

Government of the District of Columbia
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 908*
Case No. 99-3Z
(Downtown Development District – Text Amendments)
September 13, 1999

The Zoning Commission for the District of Columbia initiated this case in response to a petition from the Office of Planning (OP) requesting the Commission to amend the text of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. Such amendments to the text of the Zoning Regulations are authorized pursuant to the Zoning Act [Act of June 20, 1938, 52 Stat. 797, as amended, D.C. Code Ann. Subsection 5-413 (1981)].

The OP petition, filed on March 1, 1999, requested the Zoning Commission to schedule a public hearing to consider a number of remaining zoning text amendments to effectuate the Comprehensive Plan Amendments Act of 1998 as part of the ongoing Zoning Consistency Project that was begun following the enactment of the 1994 amendments to the Plan.

At a regular public meeting on March 8, 1999, the Zoning Commission authorized a public hearing on the petition. Accordingly, the public hearing was properly noticed for May 20, 1999 and was conducted in accordance with the provisions of 11 DCMR 3021.

At the May 20, 1999 hearing, the Commission considered three DD housing-related text amendments as proposed by OP. The Commission also considered a related amendment (within the scope of the hearing) proposed by the law firm of Wilkes, Artis, Hedrick and Lane (WAHL) for a residential project at 1301 L Street, N.W. that would modify the transferable development rights (TDRs) amendment originally proposed by OP.

*This Order was previously published in the D.C. Register on October 8, 1999. It is being republished at this time with a revision on page 4 (in **bold** type).

Z.C. ORDER NO. 908
Case No. 99-3Z
Page No. 2

At the hearing on May 20, 1999, the Commission heard the presentations of the Office of Planning (OP), Mr. Jacques B. DePuy of the law firm of Greenstein, DeLorme and Luchs (GDL), Mr. Douglas Jemal (the new owner of the Woodward and Lothrop building), Mr. Norman M. Glasgow, Jr. of WAHL, and Mr. Charles Docter, Chairman of the Downtown Housing Now Committee (DHNC).

By reports dated March 1 and May 10, 1999, and by testimony at the public hearing, OP recommended approval of the proposed text amendments which would affect Subsections 1702.5(a) and 1706.2 of Chapter 17 of 11 DCMR. This proposal would also create a new Subsection 1706.22. Existing Subsections 1706.22 through 1706.27 would be renumbered 1706.23 through 1706.28.

There were no statements submitted by any Advisory Neighborhood Commission (ANC) in the record regarding this case. As well, no ANC representatives testified at the public hearing.

Testimony in support of the proposed text amendments was presented by Mr. Jacques B. DePuy of the law firm of Greenstein, DeLorme and Luchs, on behalf of Mr. Douglas Jemal (the owner of the former Woodward and Lothrop department store building). Mr. Jemal gave the Commission a brief overview of the physical character of the Woodies property and the project he is proposing for the building.

Additional testimony in support of the proposed text amendments was presented by Mr. Norman M. Glasgow, Jr. of the law firm of Wilkes, Artis, Hedrick and Lane, on behalf of Square 247 Associates, the owner of Lot 97 in Square 247 at premises 1301 L Street, N.W. Mr. Glasgow specifically addressed the proposed amendment to Subsection 1706.2 regarding transferable development rights (TDRs).

Further testimony in support of the proposed language in Subsection 1706.22 was given by Mr. Charles A. Docter, Chairman of the Downtown Housing Now Committee (DHNC), regarding the Department of Employment Services (DOES) site in Square 491.

Mr. Terrance Lynch of the Downtown Cluster of Congregations provided additional testimony in support of the proposed text amendment to Subsection 1702.5(a) relative to Square 346 and the former Woodward and Lothrop department store building.

Final testimony in support of the proposed text amendments was presented by Ms. JoAnn Neuhaus, Secretary/Treasurer of the Pennsylvania Corridor Neighborhood Association and Mr. Peter La Lena of DHNC.

Testimony in opposition was given by Mr. Charles A. Docter, Chairman of the Downtown Housing Now Committee, regarding the expedited process request by which Mr. Jemal is proceeding with his proposal for the Woodies site. Any further amendment considerations for this site at this time should not be prematurely set down for public hearing. The proposed text amendment for Subsection 1702.5(a), however, should be approved even though it is written in a permissive manner regarding residential uses on the Woodies property.

At the conclusion of the hearing, the Commission closed the record for the case and voted to approve the proposed text amendments 4-0: (Angel F. Clarens, Anthony J. Hood, Jerrily R. Kress, and Herbert M. Franklin, to approve).

The Commission believes that the concerns and views expressed during the public hearing proceeding have been thoroughly discussed and considered. Additional text amendments affecting the Woodward and Lothrop property, the DOES site, and Subsection 1706.9 of 11 DCMR will be considered in separate public hearings.

A Notice of Proposed Rulemaking was published in the D.C. Register on July 23, 1999 and was referred to the Office of the Corporation Counsel (OCC), the Zoning Administrator (ZA), the Office of Planning (OP), and the National Capital Planning Commission (NCPC) for review and comment.

The proposed decision to approve these text amendments was referred to NCPC under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. In a letter dated September 10, 1999, NCPC indicated that the proposed text amendments would not adversely affect the Federal establishment or other Federal interests in the National Capital and would be not inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission believes that the proposed text amendments included herein will provide a workable mechanism to effectuate the Comprehensive Plan Amendments Act of 1998 as part of the ongoing Zoning Consistency Project begun following the 1994 amendments to the Comprehensive Plan. Further, the Commission believes that its decision to approve the text amendments set forth in this order is in the best interests of the District of Columbia, is consistent with the intent and purpose of the Zoning Regulations, Zoning Map and Zoning Act, and is not inconsistent with the Comprehensive Plan for the National Capital.

In consideration of the reasons set forth in this order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the following amendments to the Zoning Regulations:

Z.C. ORDER NO. 908

Case No. 99-3Z

Page No. 4

1. Amend Subsection 1702.5(a) to read as follows:

1702.5(a) The entirety of the gross floor area may be converted as a matter-of-right to any combination of preferred retail, service and arts-related uses listed in Sections 1710 and 1711 of this chapter, provided that any conversion on Square 346 may also include residential use, as defined in this chapter.

2. Amend Subsection 1706.2 to read as follows:

1706.2 The housing requirements and incentives of this section shall be applicable only in the Housing Priority Area, which is depicted in Map B and which is described by squares in Subsection 1706.8, provided that the transferable development rights provisions of Subsection 1706.3 shall be applicable throughout the DD District. Map B is incorporated by reference.

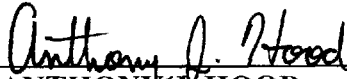
3. Add new Subsection 1706.22 to read as follows:

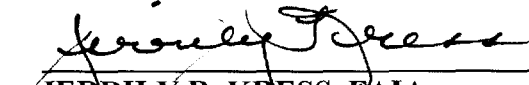
1706.22 The Department of Employment Services (DOES) building site in Square 491 shall not be eligible to send any of the required minimum 2.0 FAR of residential use off-site through the combined lot development (Section 1708) or affordable housing provisions (Subsection 1706.23) of this chapter.

Renumber existing Subsections 1706.22 through 1706.27 as 1706.23 through 1706.28.

This Order was adopted by the Zoning Commission at its public meeting on September 13, 1999, by a vote of 3-0: (Franklin, Hood, and Clarens, to approve; Mr. Parsons not voting, not having participated in the case).

In accordance with 11 DCMR 3028, this Order is final and effective upon publication in the D.C. Register, that is, on MAR 17 2000.


ANTHONY J. HOOD
Chairman
Zoning Commission


JERRILY R. KRESS, FAIA
Director
Office of Zoning